

Remarks

Claims 1-2 and 4-11 are pending in the application. Claim 3 has been canceled above without prejudice to or disclaimer of the subject matter therein. Claim 11 is newly added. Claims 1-2, 4-6 and 8-10 stand rejected, and claim 7 is objected to. Favorable reconsideration is respectfully requested.

Claims 1-6, 9 and 10 were rejected under 35 USC 102(b) as being anticipated by Suzuki et al. ("Suzuki") (US 5,558,048). Of these, claim 1, 2, 4-6, 9 and 10 remain pending. To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). In view of the foregoing authority, the Applicant respectfully submits that the cited reference does not support the asserted rejection.

The present invention as recited in independent claim 1 relates to a fluid passage structure of an internal combustion engine, comprising an in-block flow passage having a first opening position on a top face of a cylinder block, and an in-head flow passage having a second opening position on a bottom face of a cylinder head, wherein the first opening position and the second opening position are offset from each other. The fluid passage structure further comprises a groove that is formed in at least one of the top face and the bottom face and that is provided so as to establish communication between the in-block flow passage and the in-head flow passage, wherein the groove is provided with a throttle for restricting a flow rate of a fluid.

Accordingly, Suzuki does not anticipate claim 1 for at least the reason that Suzuki does not disclose a groove provided with a throttle for restricting a flow rate of a fluid, as required by claim 1. Note is taken of the Examiner's reference to FIG. 9 of Suzuki in the last sentence of paragraph 3 of the Office Action. Because the reference to FIG. 9 immediately follows a repetition of the language in claim 1 reciting a groove, it is assumed that the Examiner is alleging that FIG. 9 teaches the claimed groove. If so, the Applicant respectfully disagrees. If, for example, the Examiner is contending that element 19 in FIG. 9 of Suzuki corresponds to the claimed groove, it is noted that there is no discussion of throttling in Suzuki in connection with element 19.

Thus, the Applicant respectfully submits that Suzuki does not meet the requirements for an anticipation rejection as set forth above. Therefore, claim 1, and claims 2, 4-6, 9 and 10 dependent thereon, are allowable over Suzuki. Withdrawal of the rejection of claims 1, 2, 4-6, 9 and 10 as anticipated by Suzuki is therefore respectfully requested.

Claim 8 was rejected under 35 USC 103(a) as being unpatentable over Suzuki in view of Hiroshi (10159649). To establish a prima facie case of obviousness under § 103, all claim limitations of a claimed invention must be taught or suggested by the prior art. See MPEP, Section 2143.03 and In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In view of the foregoing authority, the Applicant respectfully submits that the cited references do not support the asserted rejection.

Claim 8 depends on claim 1 and therefore includes its features. Suzuki has been demonstrated above to be deficient with respect to at least a groove provided with a throttle for restricting a flow rate of a fluid, as required by claim 1. Hiroshi does not remedy deficiencies in Suzuki in the latter regard, and therefore claim 1 is allowable over the combination of Suzuki and Hiroshi. Consequently, claim 8 is likewise allowable over Suzuki and Hiroshi for at least the reasons discussed in connection with claim 1. Withdrawal of the rejection of claim 8 as being unpatentable over Suzuki in view of Hiroshi is therefore respectfully requested.

Claim 7 was objected to, but was indicated to be allowable if rewritten form. The Applicant respectfully submits that since claim 7 depends on allowable claim 1, claim 7 is likewise allowable. Withdrawal of the objection to claim 7 is therefore respectfully requested.

New claim 11 corresponds to claim 7 rewritten in independent form. That is, claim 11 includes the features of claims 1, 6 and 7 and is therefore allowable as indicated by the Examiner.

In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

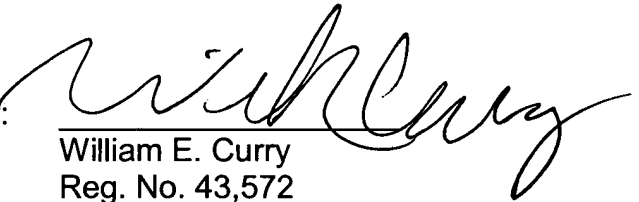
The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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By:


William E. Curry
Reg. No. 43,572

KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201